

**UNITED STATES GOVERNMENT  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 26**

**AREA AGENCY ON AGING OF  
SOUTHEAST ARKANSAS, INC.<sup>1</sup>**

Employer

and

Case 26-RC-8197

**UNITED FOOD & COMMERCIAL  
WORKERS UNION, LOCAL 2008,  
AFL-CIO**

Petitioner

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, herein referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board, herein referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,<sup>2</sup> the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.<sup>3</sup>

3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:<sup>4</sup>

**INCLUDED:** All full-time and regular part-time drivers employed by the Employer at its various locations in southeast Arkansas.

**EXCLUDED:** All other employees, employees under the State and Federal Older Workers Act, temporary and substitute drivers, office clerical employees, guards, and supervisors, as defined in the Act.

### **DIRECTION OF ELECTION<sup>5</sup>**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the Notice of Election to issue subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who are employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained the status as such during the eligibility period and their replacements. Those in the military services of the United States Government may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the

commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by the United Food & Commercial Workers Union, Local 2008, AFL-CIO.<sup>6</sup>

### **LIST OF VOTERS**

To ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. ***Excelsior Underwear***, 156 NLRB 1236 (1966); ***NLRB v. Wyman-Gordon Co.***, 394 U. S. 759 (1969). Accordingly, it is directed that an eligibility list containing the **full** names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within 7 days of the date of this Decision. The Regional Director shall make the list available to all parties to the election. No extension of time to file the list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. ***North Macon Health Care Facility***, 315 NLRB 359 (1994). In order to be timely filed, such list must be received in the Memphis Regional Office (Region 26), 1407 Union Avenue, Suite 800, Memphis, TN 38104, on or before **August 23, 2000**.

### **RIGHT TO REQUEST REVIEW**

Under the provision of Section 102.67 of the Board's Rules and Regulations, a Request for Review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street,

N.W., Washington, DC 20570-0001. This request must be received by the Board in Washington by **August 30, 2000**.

**DATED** August 16, 2000, at Memphis, TN.

/S/

---

Ronald K. Hooks, Regional Director  
Region 26, National Labor Relations Board  
1407 Union Avenue, Suite 800  
Memphis, TN 38104-3627  
tel: 901-544-0018

1. The name of the Employer was amended at the pre-election hearing.
2. The Employer and Petitioner have each filed briefs which have been duly considered.
3. The parties stipulated that Area Agency on Aging of Southeast Arkansas, Inc., is an Arkansas not-for-profit corporation engaged in providing various services to the elderly in southeast Arkansas. During the past calendar year, a representative period, the Employer's gross revenues from state and federal funding sources exceeded \$500,000.
4. The Employer operates approximately 19 senior centers and provides transportation services for the elderly in a ten-county area in southeast Arkansas. Under one of two programs operated by the Employer to provide transportation services for seniors, Southeast Arkansas Transportation Program drivers ("SEAT drivers") transport clients from their residence to medical appointments and/or dialysis treatments. Depending on the location of the client's doctor, SEAT drivers may be required to drive clients to areas (such as Little Rock, AR and locations in Mississippi) outside the Employer's geographical area. SEAT drivers do not work a fixed schedule. Rather, their schedule varies from day-to-day and week-to-week depending on the needs of the clients.

Under a second transportation program operated by this Employer, senior center drivers deliver home meals to clients and transport them to/from their residence and one of the Employer's senior centers. Four employees (designated "SEAT/senior drivers" above) regularly work as both SEAT drivers and senior center drivers. Betty Bradshaw, the Employer's President and Chief Executive Officer and the sole witness at this proceeding, testified that senior center drivers have varying schedules, but usually work from 8:00 AM until 2:00 PM.

The Employer provides the above-described transportation services out of the following cities in southeast Arkansas: **Pine Bluff** (26 SEAT drivers and 9 senior center drivers), **Sheridan** (3 senior center drivers), **Stuttgart** (3 senior center drivers), **Dewitt** (1 SEAT driver and 1 senior center driver), **Rison** (2 senior center drivers), **Star City** (3 senior center drivers), **Warren** (3 SEAT drivers and 3 senior center drivers), **Dermott** (2 SEAT drivers and 3 senior center drivers), **McGehee** (1 SEAT driver, 2 senior center drivers and 1 SEAT/senior center driver), **Dumas** (3 SEAT drivers and 3 senior center drivers), **Lake Village** (1 SEAT/senior center driver), **Eudora** (1 senior center driver), **Wilmott** (1 SEAT driver and 1 SEAT/senior center driver), **Crossett** (4 SEAT drivers, 2 senior center drivers and 1 SEAT/senior center driver), **Hamburg** (3 SEAT drivers and 3 senior center drivers) and **Monticello** (3 SEAT drivers). Each of the other cities listed above are located no more than 45 minutes by car from either Pine Bluff, Dermott or Hamburg.

At the pre-election hearing, the parties stipulated to the appropriateness of the bargaining unit found appropriate herein. I find said unit to be an appropriate unit for purposes of collective bargaining.

There are approximately **88** employees in the unit found appropriate herein.

5. The only issue presented for hearing in this matter was whether the election should be conducted by the Board's mail ballot procedure or by manual balloting at the Employer's facilities in Pine Bluff, Dermott and Hamburg. The Petitioner, contrary to the Employer, took the position that a mail ballot is appropriate.

Election arrangements, including the use of mail ballots, are administrative matters to be decided by the Regional Director after issuance of the Decision and Direction of Election. There is no requirement that parties be permitted to litigate election arrangements in the pre-election hearing. Casehandling Manual, Part Two, Representation Proceedings, Section 11301.4. Accordingly, I decline to rule herein regarding the mechanics of the conduct of the election and will issue a letter to the parties subsequent to the issuance of the instant Decision and Direction of Election on this matter. *Id.* at Section 11301.5.

6. In accordance with Section 102.67 of the Board's Rules and Regulations, as amended, all parties are specifically advised that the Regional Director will conduct the election when scheduled, even if a Request for Review is filed, unless the Board expressly directs otherwise.

#### CLASSIFICATION INDEX

280-8090

393-6081-20751367